

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DELBERT J. SMITH,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

No. 2:22-cv-0306 KJM AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se, originally filed this action in the Sacramento County Superior Court. ECF No. 1. The original complaint alleged claims for relief under state law only. ECF No. 1-1 at 5-16. After plaintiff amended the complaint to allege violations under 42 U.S.C. § 1983, defendants removed the case to federal court under 28 U.S.C. § 1441(a). ECF No. 1 at 1-3 (notice of removal); ECF No. 1-1 at 23-40 (amendments to complaint). On screening, the undersigned found that plaintiff had not stated any cognizable federal claims and provided plaintiff the options of either amending the complaint or voluntarily dismissing all federal law claims and having the case remanded to the Sacramento County Superior Court. ECF No. 11. Plaintiff has now filed a motion to remand this case to state court that is accompanied by a notice stating that he wants to voluntarily dismiss all of his federal law claims. ECF No. 12.

1 Defendants have not responded to the motion to remand.

2 Since plaintiff has voluntarily dismissed his federal law claims, it is at this court's
 3 discretion whether to exercise supplemental jurisdiction over plaintiff's remaining state law
 4 claims.¹ Carlsbad Tech. Inc. v. HIF Bio, Inc., 556 U.S. 635, 640 (2009) (statutory supplemental
 5 jurisdiction over state law claims remains even after dismissal of federal claims and is exercised
 6 at court's discretion); 28 U.S.C. § 1367(c)(3) (district court may decline to exercise supplemental
 7 jurisdiction where all claims over which it had original jurisdiction are dismissed). The court's
 8 decision whether to exercise supplemental jurisdiction should be informed by "values of
 9 economy, convenience, fairness, and comity." Acri v. Varian Assocs., Inc., 114 F.3d 999, 1001
 10 (9th Cir. 1997) (en banc) (citations and internal quotation marks omitted). Further, primary
 11 responsibility for developing and applying state law rests with the state courts. Therefore, when
 12 federal claims are eliminated before trial, district courts should usually decline to exercise
 13 supplemental jurisdiction. Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 & n.7 (1988)
 14 (citation omitted); Gini v. Las Vegas Metro. Police Dep't, 40 F.3d 1041, 1046 (9th Cir. 1994)
 15 ("[I]n the *usual* case in which federal-law claims are eliminated before trial, the balance of
 16 factors . . . will point toward declining to exercise jurisdiction over the remaining state law
 17 claims." (emphasis and alteration in original) (quoting Schneider v. TRW, Inc., 938 F.2d 986,
 18 993 (9th Cir. 1991))). Because the federal claims have been dismissed and this case is in its early
 19 stages, the court should decline to exercise supplemental jurisdiction over plaintiff's state law
 20 claims and remand the case back to state court. See Carnegie-Mellon Univ., 484 U.S. at 357
 21 ("[A] district court has discretion to remand to state court a removed case involving pendent
 22 claims upon a proper determination that retaining jurisdiction over the case would be
 23 inappropriate.").

24 ///

25 ///

26 ¹ Plaintiff's state law claims were based upon the same incidents as his federal law claims. See
 27 28 U.S.C. § 1367(a) ("[T]he district courts shall have supplemental jurisdiction over all other
 28 claims that are so related to claims in the action within such original jurisdiction that they form
 part of the same case or controversy under Article III of the United States Constitution.").

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's Notice on How to Proceed (ECF
2 No. 12 at 3) is construed as a VOLUNTARY DISMISSAL of plaintiff's federal law claims
3 without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). See ECF No. 12.

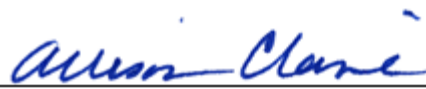
4 IT IS FURTHER RECOMMENDED that:

5 1. This court decline to extend supplemental jurisdiction over plaintiff's state law claims
6 and the motion to remand this action to state court (ECF No. 12) be GRANTED and the matter be
7 remanded to the Sacramento County Superior Court.

8 2. The Clerk of the Court be directed to mail a certified copy of the order of remand to
9 the clerk of the Sacramento County Superior Court.

10 These findings and recommendations are submitted to the United States District Judge
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
12 after being served with these findings and recommendations, any party may file written
13 objections with the court and serve a copy on all parties. Such a document should be captioned
14 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
15 objections shall be served and filed within fourteen days after service of the objections. The
16 parties are advised that failure to file objections within the specified time may waive the right to
17 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: June 6, 2022

19 
20 ALLISON CLAIRE
21 UNITED STATES MAGISTRATE JUDGE
22
23
24
25
26
27
28